

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

DANA BUSSELL and B. CLAYTON BUSSELL Plaintiffs,	)	
	)	
	)	
	)	
v.	)	CIVIL ACTION
	)	FILE NO.
	)	1:12-CV-0129-JEC-AJB
	)	
	)	
AMERICAN HOME MORTGAGE	)	
SERVICING, INC., FIELD ASSET	)	
SERVICES, INC., and MICHAEL	)	
ENVIRONMENTAL, LLC,	)	
Defendants.	)	
	)	

**PLAINTIFFS' RESPONSE IN OPPOSITION TO PARTIAL  
MOTION TO DISMISS FILED BY DEFENDANT  
AMERICAN HOME MORTGAGE SERVICING, INC.**

COME NOW Dana Bussell and B. Clayton Bussell, plaintiffs in the above and forgoing matter and files this their Plaintiffs' Response in Opposition to Partial Motion to Dismiss Filed by Defendant American Home Mortgage Servicing, Inc. (hereafter "AHMSI").

Defendant AHMSI in its Motion and Memorandum of Law in support asserts that plaintiffs have improperly asserted causes of action against AMMSI under the Fair Debt Collection Procedures Act ("FDCPA"). Defendant AHMSI bases this partial motion on the grounds that pursuant to statutory and case law, AHMSI, as a "mortgage servicer" is not considered a "debt collector" under the FDCPA.

Defendant AHMSI's legal point is well-taken, and plaintiffs do not disagree with same. However AHMSI's entire argument is moot. While plaintiffs have asserted FDCPA claims against AHMSI's co-defendants' Field Asset Services, Inc., and Michael Environmental, LLC, and have asserted Georgia state law claims against AHMSI and the other defendants, plaintiffs have not asserted any claim under the FDCPA against AHMSI. See Complaint, page 10, paragraphs 16 and 17(a), reciting the specific causes of action asserted against AHMSI, which do not include a claim against AHMSI under the FDCPA.

Thus, while the plaintiffs do not disagree with the legal arguments asserted by AHMSI, they do not apply to the Complaint filed herein, and the Motion should be denied as moot.

Respectfully submitted, this 25th day of March, 2012.

Pekor & Associates, LLC

/S/Charles B. Pekor, Jr.  
Charles B. Pekor, Jr.  
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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the above document complies with Local Rule 5.2C(3),  
in that the type font used is Times New Roman 14 point, and no more than ten (10)  
characters per inch.

This 25th day of March, 2012.

Pekor & Associates, LLC

/S/Charles B. Pekor, Jr.  
Charles B. Pekor, Jr.  
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Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I have served and filed a true and correct copy of the foregoing PLAINTIFFS' RESPONSE IN OPPOSITION TO PARTIAL MOTION TO DISMISS FILED BY DEFENDANT AMERICAN HOME MORTGAGE SERVICING, INC. electronically with the Court's ECF/PACER SYSTEM.

This 25th day of March, 2012.

Pekor & Associates, LLC

/S/Charles B. Pekor, Jr.  
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